

Appl. No. 09/716,740
Atty. Docket No. 5922R2C3
Amdt. dated 05/12/2006
Reply to Office Action of 02/14/2006
Customer No. 27752

REMARKS

Claim Status

Claims 1-5, 17, 18, 38-50, 52, 54, 55, 75, 80, 81, 86-102 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §103(a) Over Wilbur in view of Sanders

Claims 1-5, 17, 18, 38-50, 52, 54, 55, 75, 80, 81, 86-102 have been rejected under 35 USC §103(a) as being unpatentable over Wilbur (US 2,338,749) in view of Sanders (US 5,344,693) and in view of the admitted prior art. This rejection is traversed because the motivation to combine the references does not come from the references themselves or from the knowledge of one of skill in the art, and the combination of references fails to teach or suggest each of the limitations of the invention as claimed.

A combination of references in support of an obviousness rejection must have a reasonable expectation of success in the combination and the motivation to combine the references must come from the references themselves or from the knowledge of one of ordinary skill in the art. The Office Action provides that it would have been obvious to one of ordinary skill in the art, motivated by a desire to obtain a conformable wrapper, to combine a known conformable wrapper, cling film, admitted by Applicants to be a conformable wrapper, in a thickness of between about 0.0001 and about 0.002 inches, with an adhesive layer from Wilbur, and the spacing stand-offs of Sanders. Expressed another way, motivated to achieve A, in a particular thickness D, one of ordinary skill combines A, with B, and C, and forms the combination in a thickness D, and despite the lamination or coating of A with B, and the addition of structures C to the combination, the final structure is expected to have the properties and performance of A alone. Thickness D appears in none of the references as necessary or desirable but is an element of the invention as claimed.

Applicant submits that there is no motivation to begin with a conformable wrap, add an adhesive layer and a spacing structure in the hopes of obtaining a conformable wrap. Further, there is no basis in the references to believe that a conformable monolayer film will retain the same level of conformability after the addition of an adhesive layer and the addition of the structural spacing elements. There is no reasonable expectation that the provided combination of references will successfully retain the properties of the

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base elements. Laminates do not inherently retain the properties of their base layers. Laminates which have had additional structures added to them are even less likely to retain such properties.

As the Office Action points out, a judgment of obviousness based upon hindsight reasoning is permissible as long as it does not include knowledge gleaned only from Applicant's disclosure. Nothing in the cited references teaches or suggests that a material having a thickness in the range from about 0.0001 inches to about 0.002 inches will also always be sufficiently flexible to conform readily to a desired surface and have sufficiently small resiliency that it will not exert undue restorative forces that would tend to cause said sheet of material to break contact with a desired surface, or that a selected material that is sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface would inherently have a thickness in the range from about 0.0001 inches to about 0.002 inches. The references do not teach or suggest this combination of features and they are not inherently present in the material as disclosed in the references, or known in the art at the time the invention was made.

The combination of references is improperly motivated. The combination of references fails to establish a prima facie case of obviousness since it does not teach or suggest each of the limitations of the invention as claimed.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC §103(a). Early and favorable action in the case is respectfully requested.


This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-5, 17, 18, 38-50, 52, 54, 55, 75, 80, 81, 86-102 is respectfully requested.

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Respectfully submitted,

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